

## PUBLIC HEARING INFORMATION

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**Case Number(s): NRD-2016-0061 PR-2016-089186**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

DEBORAH HOLBROOK

Your Name (please print)

1615 Palma Plz

Your address(es) affected by this application

D. Holbrook

Signature

8/19/16

Date

☐ I am in favor  
☒ Object

Comments: I STRONGLY OBJECT TO DEMOLITION  
OF THIS CHARMING 1935 4 PLEX  
NAT'L REGISTERED. LISTS IT AS THE  
ONLY MULTI-FAMILY SPANISH COLONIAL  
REVIVAL IN THE ENTIRE DISTRICT.  
TRIANGULAR CORNER LOT WITH  
SET BACKS & PUE ON NORTH, ALONG  
WITH MATURE TREES WOULD LIMIT  
FOOT PRINT & NEW STRUCTURE HEIGHT  
WOULD NOT BE COMPATIBLE WITH

If you use this form to comment, it may be returned to:

City of Austin

Planning and Zoning Department

Steve Sadowsky

P. O. Box 1088

Austin, TX 78767-8810

Fax Number: (512) 974-9104

BUNGALOW  
NEIGHBORHOOD

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**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

Lauren + Jake Andrews

Your Name (please print)

1619 Palma Plaza Austin TX 78703

Your address(es) affected by this application

Lauren Andrews

Signature

☐ I am in favor  
☒ I object

8/16/16

Date

Comments: We strongly object to the demolition of the historic building at 1618 Palma Plaza. This is a charming + historic bungalow in our neighborhood which adds unique charm to the area. This building has been inhabited by nice single family homes. Please don't demolish a historic building. Furthermore, the lot because of its unique shape may not provide adequate parking for a new larger structure.

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**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

Cristina Posch  
Your Name (please print)

☐ I am in favor  
☒ I object

1615 Palma Plaza Unit B  
Your address(es) affected by this application

[Signature]  
Signature

8-18-16  
Date

Comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

JOHN Guffey  
Your Name (please print)  
1613 PALMA PLAZA  
Your address(es) affected by this application  
Signature: [Signature] Date: 8/17/16  
☐ I am in favor  
☒ I object

Comments:  
Lose  
HATE TO ~~SEE~~ A WONDERFUL  
1930'S structure in the  
neighborhood.

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Contact: Steve Sadowsky, 512-974-6454

Public Hearing: August 22, 2016 Historic Landmark Commission

SUZANNE FRANKS

Your Name (please print)

☐ I am in favor  
☒ I object

1611 PALMA PLAZA 78703

Your address(es) affected by this application

Suzanne Franks

Signature

8.18.16

Date

Comments:

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**Public Hearing:** August 22, 2016 Historic Landmark Commission

Michael Aranda

Your Name (*please print*)

☐ I am in favor  
☒ I object

1610 Palma Plaza

Your address(es) affected by this application

[Signature]

Signature

8/17/16  
Date

Comments: N/A

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**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

JUSTIN ARNETT

Your Name (please print)

1608 PALMA PLAZA

Your address(es) affected by this application

Justin Arnett

Signature

8/18/2016

Date

Comments:

I object to the demolition of the property. The property serves the community well and should be maintained. New developments not only change the face of the community but cause issues like drainage. My residence currently suffers from this due to the new development behind it.

☐ I am in favor  
☒ I object

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**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

Edith Johnson

Your Name (please print)

☐ I am in favor  
☒ I object

1602 Palma Plaza

Your address(es) affected by this application

Edith Johnson

Signature

08-17-2016

Date

Comments:

Since we live in a national historic district I oppose the demolition of a 1935 Spanish Colonial Revival Multi Family Building. Especially when the person in charge has no earthly idea of what will replace it that I know of - based on my experience with the "2 story" condos behind me and the Mc Mansion on my west side I totally disapprove of this action

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LESLIE MCGRATH - EMAILED FORM BECAUSE OUT OF TOWN

1/1

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## NOTES

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e appeal on record is an appeal to a board

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m's development ulopment

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Case Number(s): NRD-2016-4061 PR-2016-089186

Contact: Steve Sadowsky, 512-974-6454

Public Hearing: August 22, 2016 Historic Landmark Commission

Leslie McGrath

Your Name (please print)

1601 Palma Plaza

Your address(es) affected by this application

Leslie McGrath

Signature

☐ I am in favor  
☒ I object

8/18/16

Date

Comments:

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Austin, TX 78703-3418  
Texas Registered Designer #1352  
512.947.5510



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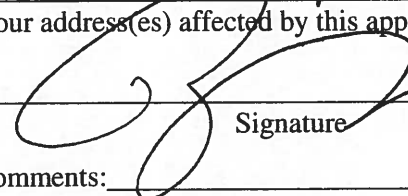
**Public Hearing:** August 22, 2016 Historic Landmark Commission

RYAN BATTLE

Your Name (please print)

1700 PALMA PLAZA

Your address(es) affected by this application



Signature

☐ I am in favor  
☒ I object

8/5/16

Date

Comments:

AS IS WHAT WE HAVE DONE WITH  
OUR 1985 PROPERTY AND SEVERAL OTHER  
PROPERTY OWNERS IN THIS AREA, WE  
BELIEVE IT TO BE PARAMOUNT TO  
MAINTAIN THE INTEGRITY OF OUR HISTORY  
BY RENOVATING AND DEVELOPING TO  
MAINTAIN OUR WITHIN THAT CONTEXT

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AND NOT FOR  
PROFIT MAXIMIZING  
ALONE. IT  
IS POSSIBLE.

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**Case Number(s): NRD-2016-0061 PR-2016-089186**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

Richard Gibson

Your Name (please print)

1701 Palma Plaza

Your address(es) affected by this application

Richard J. Gibson

Signature

☐ I am in favor  
☒ I object

08/17/16  
Date

Comments:

If you use this form to comment, it may be returned to:

City of Austin

Planning and Zoning Department

Steve Sadowsky

P. O. Box 1088

Austin, TX 78767-8810

Fax Number: (512) 974-9104

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Case Number(s): **NRD-2016-0061 PR-2016-089186**

Contact: Steve Sadowsky, 512-974-6454

Public Hearing: August 22, 2016 Historic Landmark Commission

Pam Golightly  
Your Name (please print)

1705 Palma Plaza

Your address(es) affected by this application

Pam Golightly  
Signature

☐ I am in favor  
☒ I object

8/18/16  
Date

Comments:

Agreed Later to  
see this charming  
historical building  
torn down PLEASE  
Don't  
Do IT!

If you use this form to comment, it may be returned to:

City of Austin

Planning and Zoning Department

Steve Sadowsky

P. O. Box 1088

Austin, TX 78767-8810

Fax Number: (512) 974-9104



PHONE 1

**A. HOWARD**  
INSURANCE  
Real Estate, R...

816

(1937) MORRISON &amp; F

**PALMA PLAZA—Contd**

1516 Moore Weaver  
1517 Morgan Guiton ©  
1518 Summers Connie Mrs  
1519 Van Fleet Geo

**West Lynn**

1600 Carrington J C  
1601 Seaholm W E ©  
1602 Stehr W S  
1603 Silberstein Saml ©  
1604 Morgan F T Jr ©  
1605 Moore J F ©  
rear Vacant  
1606 Cantrell B T  
1607 Neer D M ©  
1608 Plummer Geo  
1609 Allen J R  
1610 Ginsburg Sol  
1611 Chimene E O Dr ©  
1613 Keen J H ©  
1615 Elkin E F ©  
**1618** (30) Cox H T  
Dodgen H D  
Bledsoe Bruce  
Coleman J M Dr  
1619 Makemson G E ©  
1622 Mitchell Adele

601 Moore  
602 Sang  
604 Rhod  
605 Penn  
607 Bog  
Shie  
609 Bos  
610 Pea  
Mc  
611 Jur  
700 EI  
703 Lo  
709 Bo  
716 M  
720 T  
721 S  
722 S  
723 C  
801 I  
803  
805  
807  
809  
813



# BRUCE BLEDSOE 1937

image2068.JPG

n. Blatz Beer Dis...  
 zetti) 204 E 4th  
 Blaugrund Ruth C student U of T  
 r2007 Whitis  
 Y Blaylock see also Blalock  
 "Ann waitress Varsity Inn r4206  
 Av F  
 "Elsie cook Austin State Hosp r4206  
 Av F  
 "Jettie (wid Harvey C) h4206 Av F  
 "Maria M student U of T r1804  
 Nueces  
 "Mary F sten Lower Colo River  
 Authority r812 W 6th  
 "Nora M waitress Varsity Inn  
 "Wm (Rex) barber Cactus Barber  
 Shop h617 W 37th  
 → Bledsoe Bruce U S Commissioner 3d  
 fl U S Court House lawyer 514-20  
 Norwood bldg h1618 (30) Palma  
 Plaza  
 "Jesse W student U of T r 2837  
 Shoal Crest  
 "Roy T (Helene) barber Steph F  
 Austin Hotel Barber Shop h1700  
 Holly  
 "Ruth clk Austin Natl Bank r301 W  
 12th  
 "V V tchr Texas Deaf Dumb &  
 Blind Inst for Colored Youths  
 r do  
 Blenderman Bernhard (Kath) h10  
 Rainey

- HEATING — VENTILATING  
 - AUTOMATIC CONTROLS  
 FILLS — PUMPING — FURNACES  
 , TEXAS

## DURMY DIRECTORY CO'S

- Dodgen Howard D (Lorine) chf clk  
 State Game Fish & Oyster Comn  
 h1618 (30) Palma Plaza  
 " Lenera waitress Shoot's Cafeteria  
 h2006 East Side dr  
 Dodson see also Dotson  
 " Aubra Jr (Martha) slsmn KNOW  
 Radio sta r2309 Dancy  
 " Doris A student U of T rScottish  
 Rite Dormitory  
 " Drew K (Margt) atndt Lock Serv-  
 ice Sta h2214 Holly  
 " Edw A (Beverly) student U of T  
 h3805 A Speedway  
 " Ethel waitress Elbert Madison r  
 404½ E 6th  
 " Hansel (Metra) h1306 Comal  
 " Hattie maid Alpha Epsilon Phi  
 Sorority  
 " Lady L tchr r1802 W 6th  
 " Louita G student U of T rScottish



**DR JM COLEMAN 1937**

- Allen h1609 Cedar av  
" Ellen nurse h1202 E 3d  
" Elmer D r2109 E 21st  
" Emieola h908 E 10th  
" Frank W (Gertrude), iron wkr h  
1808 Brackenridge  
" Fred elev opr Littlefield Bldg r  
207 Comal  
" Gabe T student U of T r2500 San  
Antonio  
" Geo (Estelle) porter State Hwy  
Dept h1602 E 19th  
" Harry (Mary) h2109 E 21st  
" Harry (Mattie) janitor h2208 E  
13th  
" Harry Jr r2109 E 21st  
" Harvey L porter 1712 Rio Grande  
r1917 E 10th  
" Helen r2402 W 8th  
" Horace (Ada L) carp r901 E 12th  
" Houston waiter Driskill Hotel  
" Ira porter Carl Mayer Co r2208 E  
13th  
→ Jas M (Wilma) phys State Health  
Dept h1618 Palma Plaza  
" John W (Sadie) h2402 W 8th



"Floyd (Lime) 1805 E 13th  
"Frank L Rev (Jo Gretchen) pastor  
University Church of Christ h409  
W 15th

"Franklin L student U of T r 2312  
Trinity

"Geo (Ettie) atndt City Cemetery h  
2506 E 1st

COX GEO H (Maude F) Health Of-  
ficer State Dept of Health, h2200  
Parkway

"Geo M (Opal G) h1512 Woodlawn  
blvd

"Gilbert E student U of T r 2405 1/2  
Nueces

"Helen K student U of T r711 W 21st

"House The (Mrs Alice L Cox) bdg  
hse 1010 Lavaca

→ "Howard T (Tess) acct T B Trotter  
Co h1618 (30) Palma Plaza

"Isabel r505 Oakland av

"J C pntr r1909 Haskell

"J G plmbr hlpr Harper & Linscomb  
r810 W James

"Jack T hlpr Tex Public Service Co  
r1102 E 2d

"Jackson (L. B.) h 3507

United States Department of the Interior  
National Park ServiceNATIONAL REGISTER OF HISTORIC PLACES  
CONTINUATION SHEET

Section 7 Page 7

Old West Austin Historic District  
Austin, Travis County, Texas

Table 1. Style and Plan Type of Contributing and Noncontributing Dwellings in the Old West Austin Historic District, 1853-1953

Style	Plan Type									Total
	Asymmetrical	Bungalow	Center Passage	Four square	Multiple family	Rectangular	Symmetrical	Modified L-plan	None assigned	
Classical Revival	41	2	1		1	15	2			62
Colonial Revival	103	7				47	4			161
Craftsman	2	23			1	2				28
Dutch Colonial Revival	2									2
French Eclectic	6	4				1				11
Greek Revival			1							1
International	2				1	1				4
Italian Renaissance Revival	9						1			10
Medieval Revival	1									1
Mediterranean Revival	4					3				7
Mission Revival					1					1
Moderne	6				1					7
Monterey	11				1	1				13
Post World War II	23	4				3				30
Prairie School	7			1	1	1				10
Queen Anne								1		1
Ranch	41									41
Spanish Colonial Revival	21	16			1	2				40
Spanish Renaissance Revival	1				1					2
Tudor Revival	43	170			13	2				228
None assigned	599	60			31	59	11		3	763
Total	922	286	2	1	53	137	18	1	3	1,423

Building technology and mass production in the housing industry dictated the preferred method of construction and building materials. Dwellings are, for the most part, wood-frame construction with variety in the choice of exterior cladding and stylistic influences. Exterior materials include brick, stone, stucco, synthetic siding, wood, or combinations of any two materials. By far the more popular choice of material, approximately 32 percent, was the utilization of a brick veneer. This high percentage of brick exteriors can be attributed to the number of local manufacturing facilities. The second most popular material used, approximately 25 percent, was wood siding. Wood siding is primarily a horizontal drop-siding with a four-to-six-inch exposure. Other applications of wood siding are either board-and-batten or shingles. The use of stucco, approximately 9 percent, as a siding material is generally found in period revival designs transferred from Mediterranean regions and applied to such styles as Spanish Colonial Revival and Italian Renaissance Revival. These styles typically use clay tiles for roofing material. Currently, composition or asphalt shingles are the most common choice of roofing material in the historic district.

Outbuildings associated with dwellings are garages, carports, garage-apartments, storage buildings, and servant's quarters. Garages are defined as single-story buildings that store automobiles. There are 677 garages in the district. Carports serve a similar function, but have only two or fewer enclosing walls. There are fifty-eight carports in the district. Garage-apartments are two-story buildings that store one or two automobiles on the ground







HB - 170004 TRAVEL 1010

HB - 170004 TRAVEL 1010

June 27, 1985

☆☆☆

Austin-American-Statesman/Neighbor

9

# King's herb garden



Photo by Barbara Watt

The restored four-plex at 1618 Palma Plaza dates to the 1930s.

## Special fourplex Y

While most news stories about a construction in the West Austin area focus on what *has* been built, Ed Berlage is pleased about what he did not build — namely another condominium.

When the more-than-50-year-old fourplex at 1618 Palma Plaza, owned by Berlage, fell into disrepair, Berlage gutted it, leaving only the outer walls of the original structure. He rebuilt the four one-bedroomn apartments, adding

decks on the back of each to overlook the newly landscaped green space left in the rear of the building.

"There's not too much incentive to do this nowadays, Berlage said. A few years ago, condominiums were being built everywhere." Berlage said he feels that the fourplex is more desirable for the neighborhood.

The Old West Austin Neighborhood Association tends to agree with him. "He did do an excellent job," said Kathy Davis, co-chairman of the steering committee of that neighborhood organization. "He cared a great deal about how the structure would fit into the neighborhood," she said.

Berlage is no stranger to striving for better quality in neighborhood construction. He lives in the Bry-

kerwoods area and serves on the board of Bryker Woods Neighborhood Association.



**FAX COVER SHEET**

TO	Austin Zoning
COMPANY	Steve Sadowsky
FAXNUMBER	15129749104
FROM	Melissa Adams
DATE	2016-08-16 15:34:51 GMT
RE	Zoning

**COVER MESSAGE**

please accept my vote

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**Case Number(s):** HDP-2016-0506 PR-2016-084362

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

*M. Adams Medeiros Entorpe*  
Your Name (please print)

*203 Broadway Dist 78723*  
Your address(es) affected by this application

*Medeiros Entorpe M. Adams* *8/16/16*  
Signature Date

☒ I am in favor  
☐ I object

Comments:

If you use this form to comment, it may be returned to:

City of Austin  
Planning and Zoning Department  
Steve Sadowsky  
P. O. Box 1088  
Austin, TX 78767-8810  
Fax Number: (512) 974-9104



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**Case Number(s):** HDP-2016-0501 PR-2016-084694

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

McAdams Enterprises LLC  
Your Name (please print)

☒ I am in favor  
☐ I object

2901/2903 East 34th Ave  
Your address(es) affected by this application

McAdams Enterprises LLC  
Signature

8/16/16  
Date

Comments:

If you use this form to comment, it may be returned to:

City of Austin  
Planning and Zoning Department  
Steve Sadowsky  
P. O. Box 1088  
Austin, TX 78767-8810  
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**Case Number(s): HDP-2016-0492 PR-2016-078082**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

Ricardo Gardin  
Your Name (please print)

1909 Rio Grande St.  
Your address(es) affected by this application

[Signature] 08/16/16  
Signature Date

Comments:

I oppose Historic Landmark  
Designation of 1911 Rio  
Grande. I support demolition.

If you use this form to comment, it may be returned to:

City of Austin  
Planning and Zoning Department  
Steve Sadowsky  
P. O. Box 1088  
Austin, TX 78767-8810  
Fax Number: (512) 974-9104



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**Case Number(s): HDP-2016-0492 PR-2016-078082**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

RICHARD HARDIN  
Your Name (please print)

1913 Rio Grande  
Your address(es) affected by this application

[Signature] 08/16/16  
Signature Date

☒ I am in favor  
☐ I am against

Comments:

I oppose Historic Landmark  
designation of 1911  
Rio Grande. I support  
demolition.

If you use this form to comment, it may be returned to:

City of Austin  
Planning and Zoning Department  
Steve Sadowsky  
P. O. Box 1088  
Austin, TX 78767-8810  
Fax Number: (512) 974-9104

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Charles Peveto Austin History Center  
Mike Ward, Pioneer Farms

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Kate Singleton  
*Executive Director*  
Lindsey Derrington  
*Programs Coordinator*

August 18, 2016

Chair Mary Jo Galindo and Commissioners  
Historic Landmark Commission  
City of Austin  
Post Office Box 1088  
Austin, TX 78767-8865  
Sent via E-mail

Re: 1112 E. 12<sup>th</sup> Street

Dear Chair Galindo and Commissioners:

Preservation Austin respectfully urges the Historic Landmarks Commission to initiate historic zoning for the home at 1112 East Third Street, in the East Cesar Chavez Neighborhood. Architecturally, the home, which was built circa 1900, is an extremely intact example of a Victorian-era vernacular cottage, with board and batten siding and Queen Anne detailing. This is a type of home that was once common throughout many of Austin's neighborhoods, and is architecturally representative of East Austin, but has now become endangered due to our rapid development.

This house is particularly important to its East Austin community because it was home for nearly 20 years to Arturo Aleman, who was known within Austin's Mexican-American community as a labor organizer and historian. The history of minorities, and their communities, has historically not been written or collected by sources outside of those communities, making it sometimes difficult to document the significance of individuals and cultural resources. Aleman collected the stories of his church and surrounding neighborhood, preserving those for future generations. In 2010, the Austin History Center included Arturo Aleman in their exhibit on "Mexican American Firsts: Trailblazers of Austin and Travis County", in recognition of his community leadership.

Too much of the physical history of Austin's minority communities has been lost in recent years, due to extreme short-sightedness and a lack of long-term planning. We are currently working to correct some of this, with the completion of the survey of East Austin. There is much discussion in regards to some of these cases about what constitutes a "significant association" with people, businesses, event, etc. in our historic minority neighborhoods. Often in these cases, associations are overlooked because they are not deemed to be significant by people who are outside of those communities. A small business owner in a minority community, as Arturo Aleman became later in his life, may have more significance within that community than a non-minority who owns the same type of business. A person who collects the stories of a community naturally becomes a very important symbol within the community. In this instance, we also have members of Austin's Mexican-American and east side communities coming to the preservation community because they recognize Aleman as a person with extreme historical significance to the City of Austin. Preservation Austin feels that it behooves us all to listen to those voices and protect this important cultural resource.

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Caroline Wright

**VOTING REPRESENTATIVES**

Michael Holleran, UT School of Arch  
Michelle Slattery, Inherit Austin  
Charles Peveto Austin History Center  
Mike Ward, Pioneer Farms

**STAFF**

Kate Singleton  
*Executive Director*  
Lindsey Derrington  
*Programs Coordinator*

If the commission does not feel like they have enough information to initiate historic zoning, we urge you to at least postpone making a decision at the August meeting. We have heard that the draft of the East Austin Survey will be released soon and feel it would be prudent to review the recommendations in that document before allowing continued demolitions in the survey areas. Additionally, we have heard that the proposal for 1112 East Third Street is to demolish this and a neighboring house, combine the parcels, and construct three new houses. We believe that this proposal could still be accomplished utilizing the historic house and that all possible options be explored before releasing a demolition permit.

Sincerely,

Alyson McGee  
President  
Preservation Austin



**From:** [Amy C. Thompson](#)  
**To:** [Galindo, Mary - BC](#); [Whitworth, David - BC](#); [Sadowsky, Steve](#); [Panju, Arif - BC](#); [Tollett, Blake - BC](#); [Reed, Emily - BC](#); [McKenzie, Grace - BC](#); [Clites, Madeline - BC](#); [Trevino, Michelle - BC](#); [Myers, Terri - BC](#); [Osburn, Tiffany - BC](#); [Papavasiliou, Alexander - BC](#); [Valenzuela, Sarah - BC](#)  
**Cc:** [Contreras, Kalan](#); [Pamela Colloff](#)  
**Subject:** Thompson Testimony for 1112 East Third St  
**Date:** Tuesday, August 16, 2016 8:48:30 PM

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Dear Commissioners and Staff,

I submit the attached materials as the East Cesar Chavez Historic Preservation Committee Chair.

Attached, please find my testimony and supporting documentation, gathered by the committee, in favor of granting landmark status to the home at 1112 East Third Street.

From my own perspective, I'd like to add the following.

Noted historian and archivist H. Morse Stephens famously penned that, "Every generation writes its own history of the past." For too long the history of our City followed the sad tradition of privileging the narratives of the wealthy and the cultural majority, while ignoring the contributions and suppressing the identity and self-worth of working class and non-white Austinites. For generations, the potential of Mexican American and black youth in Austin has been curtailed by policies of residential and classroom segregation (both de jur and defacto). As Arturo L. Aleman observed in a April 29<sup>th</sup>, 1944 editorial piece (attached), "The segregated schools for the Latin American children (of Travis County) develop in these children an inferiority complex..." This case represents an opportunity to depart from this sad tradition and to actively take up the important work of recognizing and celebrating the experiences and contributions of Austinites from all ethnic and socio-economic backgrounds who worked to improve themselves, their families, and this city that we all call home.

Recognizing the efforts and contributions of the Mexican American community is of particular importance to our neighborhood. The story of the Aleman family is not

unlike the story of [Danny Camacho's family](#) (which you heard during citizen's communications at the June HLC meeting), and like the story of Danny's family it is one worth telling.

I hope you will enjoy learning more about the Aleman family as much as our committee has. If you find the story to be one that any Austinite would benefit from learning, imagine what the story would mean to current and future generations of Mexican American Austinites.

Should you have any questions, I am at your service.

Sincerely,

Amy Thompson

[512-659-7666](tel:512-659-7666)

 [Moses Aleman Written Testimony to COA HLC. Doc....](#)

 [1112 E. 3rd \\_ circa 1977.jpg](#)

 [Aleman Grocery \\_ First Mexican Baptist Church \\_...](#)

 [Abridged Aleman Family History.pdf](#)

 [Aleman\\_Education Obstacles 1944\\_ American Dream...](#)

 [1013 E. 3rd \\_Aleman home purchased in 1946\\_Artu...](#)

 [Thompson Testimony\\_ 1112 East Third.docx](#)

 [1112 E. 3rd - circa 2014 with Moses Aleman.jpg](#)

 [Arturo and Moses Aleman\\_1943\\_playing music.JPG](#)

 [Memoirs\\_Arturo Aleman.pdf](#)

 [Memoirs Arthur G. Aleman.doc](#)





[La\\_Voz\\_de\\_Austin\\_October\\_2010abc.pdf](#)

**From:** [Amy C. Thompson](#)  
**To:** [Galindo, Mary - BC](#); [Whitworth, David - BC](#); [Sadowsky, Steve](#); [Panju, Arif - BC](#); [Tollett, Blake - BC](#); [Reed, Emily - BC](#); [McKenzie, Grace - BC](#); [Clites, Madeline - BC](#); [Trevino, Michelle - BC](#); [Myers, Terri - BC](#); [Osburn, Tiffany - BC](#); [Papavasiliou, Alexander - BC](#); [Valenzuela, Sarah - BC](#)  
**Cc:** [Pamela Colloff](#); [Contreras, Kalan](#)  
**Subject:** Thompson Testimony for 1112 East Third St\_Part 2  
**Date:** Tuesday, August 16, 2016 8:36:51 PM

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**From:** [Amy C. Thompson](#)  
**To:** [Galindo, Mary - BC](#); [Whitworth, David - BC](#); [Sadowsky, Steve](#); [Panju, Arif - BC](#); [Tollett, Blake - BC](#); [Reed, Emily - BC](#); [McKenzie, Grace - BC](#); [Clites, Madeline - BC](#); [Trevino, Michelle - BC](#); [Myers, Terri - BC](#); [Osburn, Tiffany - BC](#); [Papavasiliou, Alexander - BC](#); [Valenzuela, Sarah - BC](#)  
**Cc:** [Contreras, Kalan](#); [Pamela Colloff](#)  
**Subject:** Fwd: Thompson Testimony for 1112 East Third St\_Part 1  
**Date:** Tuesday, August 16, 2016 8:33:57 PM  
**Attachments:** [Abridged Aleman Family History.pdf](#)  
[Thompson Testimony 1112 East Third.docx](#)

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Apologies, but due to City e-mail limits, I am having to resend this message to those of you with City addresses in phases.

----- Forwarded message -----

**From:** **Amy C Thompson**  
**Date:** Tue, Aug 16, 2016 at 8:03 PM  
**Subject:** Thompson Testimony for 1112 East Third St  
**To:** "[bc-Mary.Galindo@austintexas.gov](mailto:bc-Mary.Galindo@austintexas.gov)" <[bc-Mary.Galindo@austintexas.gov](mailto:bc-Mary.Galindo@austintexas.gov)>, [bc-David.Whitworth@austintexas.gov](mailto:bc-David.Whitworth@austintexas.gov), "Sadowsky, Steve" <[Steve.Sadowsky@austintexas.gov](mailto:Steve.Sadowsky@austintexas.gov)>, [bc-Arif.Panju@austintexas.gov](mailto:bc-Arif.Panju@austintexas.gov), [bc-Blake.Tollett@austintexas.gov](mailto:bc-Blake.Tollett@austintexas.gov), [bc-Emily.Reed@austintexas.gov](mailto:bc-Emily.Reed@austintexas.gov), [bc-Grace.McKenzie@austintexas.gov](mailto:bc-Grace.McKenzie@austintexas.gov), [bc-Madeline.Clites@austintexas.gov](mailto:bc-Madeline.Clites@austintexas.gov), [bc-Michelle.Trevino@austintexas.gov](mailto:bc-Michelle.Trevino@austintexas.gov), [bc-Terri.Myers@austintexas.gov](mailto:bc-Terri.Myers@austintexas.gov), [bc-Tiffany.Osburn@austintexas.gov](mailto:bc-Tiffany.Osburn@austintexas.gov), [bc-Alexander.Papavasiliou@austintexas.gov](mailto:bc-Alexander.Papavasiliou@austintexas.gov), [bc-Sarah.Valenzuela@austintexas.gov](mailto:bc-Sarah.Valenzuela@austintexas.gov)

 <a href="#">La_Voz_de_Austin_October_2010abc.pdf</a>	
 <a href="#">Memoirs Arthur G. Aleman.doc</a>	
 <a href="#">Memoirs_Arturo Aleman.pdf</a>	

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Should you have any questions, I am at your service.

Sincerely,

Amy Thompson

[512-659-7666](tel:512-659-7666)



1015 E. 3rd ST. AUSTIN, TX







1112 E. 3rd ST. AUSTIN, TX AUG 1977







PAPA ARTURO AND DAD (AGE 12) AUSTIN, TX 1943  
ARTURO L. ALEMAN AND HIS SON, MOSES, ENTERTAINING AT A MEETING  
OF THE "CONFEDERATION OF MEXICAN WORKERS" IN 1943 IN THEIR  
MEETING HALL WHICH WAS LOCATED ON EAST 7th ST. IN AUSTIN





## PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (it may be delivered to the contact person listed on a notice); or
- appearing and speaking for the record at the public hearing;

and:

- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 14 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: [www.austintexas.gov/development](http://www.austintexas.gov/development).

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number(s): LHD-2016-0014

PR-2016-083733

Contact: Steve Sadowsky, 512-974-6454

Public Hearing: Historic Landmark Commission, August 22, 2016

Cleveland R. Burke, Attorney for John C. Mayes,

Your Name (please print)

3912 Avenue G, Austin, Texas, 78751

☐ I am in favor  
☒ I object

Your address(es) affected by this application

*Cleveland R. Burke*

Signature

*8/18/16*

Date

Comments: Mr. Mayes objects to the issuance of a building permit in this case. Applicant seeks to construct a garage apartment pursuant to a variance granted by the Board of Adjustment in Case No. C-15-2016-0600. Mr. Mayes has appealed that decision in the lawsuit styled *John C. Mayes v. Board of Adjustment of the City of Austin, Texas*. Cause No. D-1-GN-003234 in the 201st District Court of Travis County, Texas, which is currently pending. A copy of Mr. Mayes's petition (without exhibits) is enclosed herewith. This proceeding is premature and may ultimately be moot, because the garage might never be constructed if the variance is overturned. Alternatively, if the Applicant moves forward on construction in reliance on the contested variance, Mr. Mayes will be forced to seek a tear-down of the structure if the variance is overturned. The Commission should wait to hear the Application until the appeal is finally resolved.

If you use this form to comment, it may be returned to:

City of Austin

Planning & Zoning Department

Steve Sadowsky

P. O. Box 1088

Austin, TX 78767-8810

Fax Number: (512) 974-9104

7/21/2016 4:50:24 PM

Velva L. Price  
District Clerk  
Travis County  
D-1-GN-16-003234  
Ruben Tamez

D-1-GN-16-003234

CAUSE NO. \_\_\_\_\_

JOHN C. MAYES,  
*Plaintiff,*

v.

BOARD OF ADJUSTMENT OF  
THE CITY OF AUSTIN, TEXAS,  
*Defendant.*

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§  
§

IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

201ST

\_\_\_\_ JUDICIAL DISTRICT

**VERIFIED ORIGINAL PETITION FOR WRIT OF CERTIORARI  
AND APPLICATION FOR INJUNCTIVE RELIEF**

TO THE HONORABLE DISTRICT COURT:

Pursuant to Texas Local Government Code § 211.011, Plaintiff John C. Mayes ("Mayes") files this Original Petition for Writ of Certiorari and Application for Temporary Injunction complaining of the Board of Adjustment of the City of Austin, Texas (the "Board"). The Board acted illegally and clearly abused its discretion by: denying Mayes's request for reconsideration of the Board's decision granting a setback variance; refusing to consider evidence submitted in support of the request for reconsideration; approving the variance based upon an alleged hardship different than the one advanced by the applicant; and approving the variance based on an alleged hardship that was self-imposed. Mayes requests that the Court reverse the Board's decision granting the variance and render a judgment denying the variance. Alternatively, Mayes requests that this Court reverse the Board's decision granting the variance and remand this proceeding to the Board with instructions to hear Mayes's request for reconsideration. Mayes also requests that the Court issue an order staying the decision to grant the variance or, alternatively, a mandatory injunction ordering the Board to stay its decision pending final resolution of this appeal.

**I.****II. DISCOVERY CONTROL PLAN**

1. Mayes intends to conduct discovery under Level 2. *See* Tex. R. Civ. P. 190.3.

**III. PARTIES**

2. Mayes is an individual residing in Travis County, Texas.
3. The Board is an established board of the City of Austin (the "City") and may be served with process by serving the City Clerk, Jannette S. Goodall, Austin City Hall, 301 West 2nd Street, Suite 1120, Austin, Texas 78701.

**IV. JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction over this proceeding under Texas Local Government Code § 211.011. Mayes is a "person aggrieved" by the Board's decision granting the setback variance, because his property abuts the affected property line. *See* Tex. Local Gov't Code § 211.011(a)(1). Mayes is the person most impacted by the Board's illegal decision to grant the variance allowing development of the subject property in a manner inconsistent with the City's ordinances.

5. Venue is mandatory here because the Board is a political subdivision located in Travis County, Texas. *See* Tex. Civ. Prac. & Rem. Code § 15.0151. Venue is also proper in Travis County because this is where all or a substantial part of the acts or omissions giving rise to Mayes's claims occurred and where the Board maintains its principal office. *See id.* § 15.002(a).

**V. NATURE OF RELIEF**

6. Mayes seeks non-monetary relief pursuant to Texas Local Government Code § 211.011. *See* Tex. R. Civ. P. 47.



## VI. BACKGROUND

### A. *The Application for Variance and the Initial Hearing*

7. This dispute arises from an application for a variance (the "Application") filed with the Board by architect Lotte Vehko (the "Applicant") on behalf of William and Sarah Bircher. The Birchers are the owners of the subject property located at 3913 Avenue F, Austin, Texas, 78751 (the "Bircher Property"), which sits at the southeast corner of the intersection of Avenue F and 40th Street in the Hyde Park neighborhood. City Ordinance No. 020131-20 Part 8, 1 (*Site Development Standards Table*) imposes a minimum rear setback of 10 feet on the Property. The Applicant sought a variance to allow the construction of a two-story garage apartment (the "Garage") only 3 feet 6 inches from the rear lot line of the Bircher Property. The purpose of placing the Garage in the proposed location would be to permit access from 40th Street rather than Avenue F (which would not require a setback variance), and to align the Garage with the porte-cochere (*i.e.*, pass-through carport) already located within the rear setback.

8. Mayes is the owner of the Covert House, which is a City of Austin Historic Site located at 3912 Avenue G, Austin, Texas, 78751 (the "Mayes Property"). The rear of the Mayes Property abuts the rear of the Bircher Property. If built in the location proposed by Applicant, the Garage would loom over the swimming pool and outdoor recreation area situated in the rear of the Mayes Property, thereby causing substantial harm to Mayes's use and enjoyment of his property and its value.

9. Among other things, an applicant for a variance must demonstrate that there exists a hardship that is unique to the property and that, due to the zoning regulation at issue, does not allow for a reasonable use of the property. In the Application, the Applicant claimed a hardship on the following basis:

The driveway comes onto the property from 40th Street, and passes through a porte-cochere at the rear of the house. The posts supporting the porte-cochere restrict the maneuverability of standard-sized vehicles, and the location of the trees prevents locating the garage within the setbacks in a way that would accommodate that restriction.

A review of the site plan submitted with the Application reveals that, in fact: (1) there is only one relatively small tree (not protected by City ordinance) blocking access to the Garage from Avenue F; and (2) the post that allegedly restricts the turning radius to access the Garage supports a second-story added by the Birchers to their home – *not the porte-cochere*.

10. The Board's initial hearing (the "Initial Hearing") on the Application took place on June 13, 2016.<sup>1</sup> On June 7, 2016, Mayes left the country for an extended period of time. Although notice of the Initial Hearing was mailed to him, it arrived without his knowledge on or about the time that he departed, so Mayes was unaware of the Initial Hearing until after the it occurred.

11. At the Initial Hearing, the Applicant argued a subtly but materially different ground for hardship than was set forth in the Application, stating that there is column located "a couple of feet south of when you come through the carport that makes it a little bit difficult to navigate." When questioned by Commissioner Brian King why the Garage could not be placed further to the north and west (outside of the rear setback and the critical root zone of a tree on the south property line), the Applicant stated that the column *at the corner of the porch located to the south of the porte-cochere* (the "South Column") would restrict access to the Garage such that "the turning radius of the Garage doesn't work if it gets any further west." Commissioner Brooke Bailey expressed concern that the Board had not heard from the neighbor to the east (*i.e.*, Mayes), who would be principally affected by the variance. Commissioner Michael Von Ohlen,

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<sup>1</sup> Videos of the Initial Hearing on June 13, 2015 and the Reconsideration Hearing on July 11, 2016, along with documentation related to those meetings, are available on the City's website at: [http://www.austintexas.gov/cityclerk/boards\\_commissions/meetings/15\\_1.htm](http://www.austintexas.gov/cityclerk/boards_commissions/meetings/15_1.htm) (last visited July 21, 2016)

who repeatedly described himself as a "pro-property rights kind of guy," responded by assuring Commissioner Bailey and the other Board members that the Hyde Park Neighborhood Association would have objected to the variance if any adjacent neighbors had an issue, implying that Mayes's failure to appear at the hearing reflected his consent to the Application. At no time did the Board address or consider the objection filed by Joe and Toni Van Gompel, whose home is located caddy corner to the southeast corner of the Bircher Property on which the Garage would be built.

12. The primary concern raised by several Board members was the proposed placement of the Garage within the critical root zone of a tree located near the south line of the Bircher Property. At one point, Board member Melissa Hawthorne got confused and believed that the south lot line of the Bircher Property was actually the rear of the property (which requires a 10-foot setback) and that the east lot line was the side of the property (which only requires a 5-foot setback), apparently because the Bircher Property sits on a corner lot. Although other Commissioners corrected her misunderstanding, Commissioner Hawthorne came up with the notion that, if the Board were to consider the south lot line the rear (instead of the side) of the property, then the Garage would comply with the 10-foot setback applicable to rear lot lines if the Garage were moved 5 feet to the north.<sup>2</sup>

13. Thereafter, Commissioner Hawthorne proposed a motion to approve the variance allowing the Garage to be placed only 3 feet 6 inches from the Mayes Property line with the condition that the Garage move 5 feet to the north to minimize the impact on the neighbor to the south and the critical root zone near south line of the Bircher Property. The motion was

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<sup>2</sup> Besides being a blatant misapplication and ad hoc revision of a City ordinance, this interpretation would result in an inadequate *front* setback (which must be at least 25 feet) on the new "front" of the house as envisioned by Commissioner Hawthorne.



approved by a 10-1 vote, and the variance was granted. In its "Decision Sheet," the Board found that the rear setback applicable to the Bircher Property does not allow reasonable use because:

garage apartments are common in Hyde Park, and this property is typical of older homes in the area with the specific configuration of porte-cochere on the east property line and large trees in the back, *providing additional 5 feet setback from what would be considered the rear*, giving 3 ½ feet setback on the east provides to house behind and allows use for the porte-cochere in its existing location.

(emphasis added). The Board also found hardship based on "the location of the porte-cochere and large trees to the rear of the house." Notably, the Board did *not* find hardship based on the column located several feet to the south of the porte-cochere.

*B. The 2008 Remodel of the Birchers' House and Construction of the South Column*

14. Contrary to the Board's findings, the basis of the hardship and the restricted turning radius claimed by Applicant was *not the porte-cochere*; it was the column located nearly 8 feet to the south of the porte-cochere supporting the southeast corner of the second-story addition to the Birchers' home. This distinction is critical. What the Applicant failed to share with the Board, and what the Board failed to consider, was that the offending column (the "South Column") that caused the alleged hardship was *put there by the Birchers based upon the Applicant's own architectural plans* during prior renovations completed in 2008 and/or 2009. If the Board had properly understood and considered the Application (including the site plan), the effect of the Bircher's prior remodel, and the Applicant's statements at the Initial Hearing describing the actual cause of the restricted turning radius, the Board would have determined that the basis of the alleged hardship was not the basis upon which the variance was granted, but rather a situation that the Birchers had themselves created.

15. On March 21, 2008, the Birchers filed a Residential Building Permit Application (the "Building Permit Application") with the City, which was later approved. The Building

Permit Application contains architectural plans showing the changes later made by the Birchers to the existing structure. The Birchers remodeled the existing car port into a porte-cochere, and in the process narrowed its width by expanding their house by 5 feet 6 inches to the east (*i.e.*, toward the property line with Mayes) in order to build a staircase to a new second-story addition. The addition extended 7 feet 9 inches to the south and 12 feet 5 inches to the east beyond the existing footprint of the first floor of the home. The addition was supported by a new column on its southeast corner (*i.e.*, the South Column), creating a covered porch on the ground level of the southeast corner of the house. Thus, by narrowing the width of the porte-cochere and installing the South Column to support their second-story addition, the Birchers (based on the Applicant's own design) created the very same obstruction that the Applicant later claimed was a hardship requiring a variance. In spite of all this, the architectural plans provided for two parking spaces located outside of the 10-foot rear setback line, *in the same location that the Applicant now asserts is inaccessible due to the South Column*. In other words, what the Applicant claimed was a hardship was actually the very situation that the Birchers themselves designed and created with the help of the Applicant.

*C. The Request for Reconsideration and the Reconsideration Hearing*

16. Mayes first learned of the Application, the Initial Hearing, and the granting of the variance on June 18, 2016, when he received an email from his neighbor who had appeared to contest the variance at the Initial Hearing. On June 23, 2016, Mayes timely submitted a request for reconsideration (the "Request for Reconsideration") pursuant to Article 4(G) of the Rules of Procedure for the Board of Adjustment and Sign and Review Board (the "Board Rules").<sup>3</sup>

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<sup>3</sup> A true and correct copy of the Board Rules is attached hereto as Exhibit I. The Board Rules are also available on the City of Austin's website at: [www.austintexas.gov/edims/document.cfm?id=134658](http://www.austintexas.gov/edims/document.cfm?id=134658) (last visited July 21, 2016).

17. In the Request for Reconsideration, Mayes explained that he was out of the country at the time of the Initial Hearing and would be through July 2016. Mayes stated that he emphatically objected to the variance and sought to correct the Board's false assumption that his failure to appear at the Initial Hearing demonstrated his consent to the variance. Mayes requested that the Board reconsider its decision to grant the variance because he did not have an opportunity to object at the Initial Hearing. Mayes pointed out that proposed structure was not consistent with the Hyde Park neighborhood, and that the objection filed by the Van Gompels was never even considered at the Initial Hearing. Mayes also submitted several pieces of new or clarifying evidence, including the Birchers' Building Permit Application conclusively showing that the Birchers' alleged hardship was self-imposed.

18. Unfortunately, the City liaison (the "Liaison") responsible for uploading the submissions of interested parties to the Board's website and distributing those materials to the Board in an "advance packet" ahead of the hearing made several errors with respect to Mayes's Request for Reconsideration. First, she inadvertently omitted from the advance packet page 2 of the 3-page Request for Reconsideration (which contained the heart of Mayes's substantive arguments) and three of the four supporting attachments, including the Building Permit Application. Second, the Liaison initially failed to post page 2 of the Request for Reconsideration to the Board's website and did not correct this error until Mayes's counsel pointed it out to her only one or two business days before the hearing. Third, it appears from the documents posted on the Board's website that the Liaison attached the *Applicant's* filing to *Mayes's* Request for Reconsideration where his supporting evidence should have been, then uploaded Mayes's supporting evidence as a separate document. The end result was that the Commissioners failed to receive or review Mayes's complete Request for Consideration and

supporting evidence before the hearing, and the "backup" submissions and evidence posted to the Board's website at the time of the hearing were incoherent and confusing.<sup>4</sup> None of these problems were caused by Mayes, who properly and timely submitted his Request for Reconsideration and supporting evidence well in advance of the hearing.

19. Unfortunately, none of the Board members appeared to be aware of these issues or the items missing from their advance packets when they showed up for the Reconsideration Hearing. To make matters worse, the Board's computer system was down during the hearing, so none of the Board Members could access the Request for Reconsideration and supporting evidence online. Mayes's counsel brought print-outs of the Request for Reconsideration to the hearing, which were distributed to the Board. But before the hearing could even begin, Commissioner Von Ohlen became visibly upset and expressed exasperation at what he believed to be the submission of late-filed evidence. Commissioner Von Ohlen complained that he only had 20 pages of backup in the advance packet he received the prior week, but now he was being asked to consider "well over 80 pages" of new backup. Commissioner Von Ohlen stated: "This is like when lawyers really bother me with a bunch of paper and you don't have time to digest it. And I'm not prepared to deal with this right now."<sup>5</sup>

20. Board Chairman William Burkhardt then interjected and asked the City attorney to weigh in, which Chairman Burkhardt suggested "might solve [Commissioner Von Ohlen's] problem." Assistant City Attorney Brent Lloyd then stated his opinion that Mayes did not have

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<sup>4</sup> After repeated complaints by the Commissioners at the Reconsideration Hearing regarding the "late-filed" backup, the Liaison eventually spoke up late in the hearing to clarify that the backup was timely filed and to acknowledge that the advance packets provided to the Board were missing page 2 of the Request for Reconsideration and three of the four supporting attachments. By that time, however, the damage was already done.

<sup>5</sup> This was a recurring theme throughout the Reconsideration Hearing. In subsequent discussions regarding a motion to postpone the hearing, Commissioner Melissa Hawthorne suggested: "To bring in 80-plus pages of late backup, I mean, it's almost like it was on purpose." Later, speaking against a motion to postpone the hearing, she stated that nothing in the 2-page excerpt of the Request for Reconsideration provided in her advance packet would cause her to change her mind, though she could not say for certain whether something in "the 80 pages I got tonight" might alter her decision to grant the variance.



standing to file the Request for Reconsideration based on his interpretation of the Board Rules. Specifically, Article 4(G)(1) of the Board Rules provides: "A request to reconsider may be filed by any person having original standing." Ex. 1, Board Rules Art. 4(G)(1). After acknowledging that "original standing" was not defined in the Rules, Lloyd opined at length that, based on his "experience" and general understanding of the legal concept of standing, the only person with original standing to file a request for reconsideration in a variance case is the applicant itself. Lloyd expressed this opinion despite the fact that the Board's own community guidebook (the "Board Guidebook")<sup>6</sup> – which Lloyd himself helped draft – explicitly states: "Either side—*i.e.*, an applicant or "interested party"—may request RECONSIDERATION of the Board's decision to either grant or deny a variance." See Ex. 2, Board Guidebook, App'x G at 4. Upon hearing this, several Commissioners disagreed with Lloyd's interpretation and pointed out that the Board had consistently allowed other interested parties to seek reconsideration in the past. When Commissioner Von Ohlen weighed in, he returned to the allegedly "late-filed" backup: "I would've probably had a different feeling [regarding Mayes's standing] if I'd have had this information last week when my packet was delivered, but to walk in the door today to present it, and ask us to act on it immediately, I think is a big stretch."

21. Chairman Burkhardt then suggested that, in fact, the Rules *did* expressly state that, for a variance or special exception, only the landowner or their agent has original standing. However, as he later acknowledged, the Rules he referred to were *proposed amendments to the Rules*, which were set on the Agenda to be considered for adoption later in the hearing. Thus,

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<sup>6</sup> The full name of the Board Guidebook is: "A Community Guide to the City of Austin's Board of Adjustment: Practical Tips for Zoning Variances, Special Exceptions, and Administrative Appeals." A true and correct copy of the Board Guidebook is attached hereto as Exhibit 2. The Board Guidebook is also available on the City's website at: [https://www.austintexas.gov/sites/default/files/files/Planning/Applications\\_Forms/Board\\_of\\_Adjustment\\_Guidebook\\_July\\_2015\\_.pdf](https://www.austintexas.gov/sites/default/files/files/Planning/Applications_Forms/Board_of_Adjustment_Guidebook_July_2015_.pdf) (last visited July 21, 2016)

Chairman Burkhardt was apparently suggesting that Board apply a new rule that had not even been adopted yet and, as it turns out, was ultimately rejected by the Board later that evening.

22. Following this confusing series of events, Commissioner Rahm McDaniel made a motion to deny the Request for Reconsideration. Commissioner McDaniel stated that the basis for his motion was that allowing reconsideration would be "opening Pandora's Box. We do a lot of variances here, and if we're going to be changing the circumstances under which we hear a reconsideration, we should look at the rules first before we, sort of, create them on the fly." Commissioner King pointed out that he still did not have the full Request for Reconsideration, which was missing pages. When a full copy of Request for Reconsideration was offered to him, Commissioner King declined, stating: "I'm not going to digest it now."

23. After a motion to postpone the hearing on the Request for Reconsideration failed, the Board voted on Commissioner McDaniel's motion to deny reconsideration without having considered any of the new evidence timely submitted by Mayes. Four Commissioners voted against the motion, and 7 Commissioners voted in favor. Chairman Burkhardt then declared that the Request for Consideration was denied without a hearing. Mayes's counsel was never allowed to speak, and Mayes never had any opportunity for the Board to hear his objections to the variance and to consider the evidence that should have led the Board to deny it.

## **VII. REQUEST FOR WRIT OF CERTIORARI**

### ***A. Judicial Review under Texas Local Government Code § 211.011***

24. Texas Local Government Code § 211.011(a) permits an "aggrieved" person to appeal a board of adjustment's decision that is "illegal in whole or in part" by filing a petition for writ of certiorari with the district court. The court may grant the writ directing the board to prepare a verified return that "concisely state[s] any pertinent and material facts that show the

grounds of the decision under appeal.” *Id.* § 211.011(c)-(d). The writ may also require the board to produce certified copies of the documents relied upon to make the decision. *Id.* § 211.011(d).

25. The petition must specify the grounds on which the board of adjustment’s decision is illegal. *Id.* § 211.011(a). To establish illegality, the plaintiff must “present ‘a very clear showing of abuse of discretion.’” *City of Dallas v. Vanesko*, 189 S.W.3d 769, 771 (Tex. 2006) (quoting *City of San Angelo v. Boehme Bakery*, 190 S.W.2d 67, 71 (1945)). A board abuses its discretion if it “acts without reference to any guiding rules or principles or clearly fails to analyze or apply the law correctly.” *Id.*

*B. The Board’s Decision to Deny the Request for Reconsideration was Illegal and a Clear Abuse of Discretion.*

26. The Board’s denial of the Request for Reconsideration without a hearing was illegal and a clear abuse of discretion because the Board failed to consider any evidence and to follow its own Rules and Guidebook in reaching its decision.

27. First, from the discussion at the Reconsideration Hearing, it is apparent that at least some of the Commissioners denied the Request for Reconsideration based on the City attorney’s erroneous advice that Mayes lacked standing. Board Rule Art. 4(G)(1) states that “[a] request for reconsideration may be filed by any person having original standing.” Ex. 1, Board Rule Art. 4(G)(1). The Board Guidebook provides: “Either side—i.e., an applicant or “interested party”—may request RECONSIDERATION of the Board’s decision to either grant or deny a variance.” Ex. 2, Board Guidebook, App’x G at 4. As the Austin Court of Appeals recently stated, “when determining whether an entity has acted arbitrarily or capriciously, ‘[t]he major factor that runs throughout [the] ... review ... is that parties must be able to know what is expected of them in the administrative process.’” *Nat’l Media Corp. v. City of Austin*, No. 13-12-00188, 2014 WL 4364815, \*1 (Tex. App.—Austin Aug. 27, 2014, no pet.) (mem. op.)

(quoting *Starr County v. Starr Indus. Servs., Inc.*, 584 S.W.2d 352, 356 (Tex. Civ. App.—Austin 1979, writ ref'd n.r.e.) (determining that Texas Water Quality Board acted arbitrarily and capriciously when it denied permit based on requirements that had not been previously proposed by Board)). Mayes had standing to appear at the original variance hearing, therefore he had “original standing” to seek reconsideration. See Ex. 1, Board Rule Art. 4(G)(1). Not only is this the only logical reading of the Rule, it is also consistent with the Board’s admitted prior practice and with its own Board Guidebook advising community citizens of Board practice and procedures. See Ex. 2, Board Guidebook, App’x G at 4. Moreover, the fact that the Board on the same day considered an amendment to its Rules that would have *changed* the standing requirements to pursue reconsideration (AND ACTUALLY REJECTED SUCH AMENDMENT) clearly indicates that the existing Board Rules specifically authorized Mayes to seek reconsideration and that the advice given by the City attorney to the contrary was wrong. There would have been no reason to change the Board Rules to provide what was already (according to Lloyd) prohibited.

28. Second, it is apparent that many of the Commissioners voted to deny the Request for Reconsideration under the mistaken belief that Mayes’s Request for Reconsideration and supporting documents were not timely filed. As the Liaison acknowledged at the Reconsideration Hearing, this was not the case. But because of her mistake in uploading the documents and in preparing the Board’s advance packets, many of the Commissioners determined that the hearing should not be postponed and that Request for Reconsideration should be denied without hearing.

29. Third, none of the Commissioners actually considered the full Request for Reconsideration and the new evidence filed by Mayes. Board Rule Art. 4(G)(3) provides:



The Board *shall review the request and shall, on the basis of the written material submitted by the applicant in support of the request*, determine whether to reconsider the matter because of an error in its original determination or on the basis of new or clarified evidence not presented to the Board at the original hearing that might affect its determination.

Ex. 1, Board Rules Art. 4(G)(3) (emphasis added). Despite this mandate, and most likely due to the Liaison's failure to properly submit Mayes's Request for Reconsideration and supporting attachments to the Board, the Commissioners freely admitted that they did not and could not have possibly reviewed those documents prior to denying the Request for Reconsideration.

30. Finally, the Board denied the Request for Reconsideration without a hearing, even though a sufficient number of Commissioners voted to hear the Request for Reconsideration. Four Commissioners voted against the motion to deny the Request for Reconsideration without hearing. Ex. 1, Board Rule Art. 4(G)(3) provides: "The affirmative vote of *four* members of the Board shall be necessary to reconsider a matter, which shall then be heard immediately following the Board's decision to reconsider." (emphasis added). Thus, despite the fact that four Commissioners voted against the motion to deny (and thus in favor of) hearing the Request for Reconsideration, Chairman Burkhardt declared the Request for Reconsideration denied without a hearing in violation of the Board Rules.

31. By misinterpreting and failing to follow its own Rules, the Board acted illegally and clearly abused its discretion when it denied the Request for Reconsideration without considering any of Mayes's timely filed evidence. This Court should reverse the Board's decision denying the Request for Reconsideration and render a judgment denying the variance for the reasons set forth below. Alternatively, this Court should reverse the Board's decision denying the Request for Reconsideration and remand this proceeding to the Board with

instructions to hear the Request for Reconsideration and consider the new evidence submitted by Mayes.

*C. The Board's Decision to Grant the Variance was Illegal and a Clear Abuse of Discretion.*

32. Had the Board properly considered the new evidence submitted by Mayes, the only possible correct decision would have been to deny the variance.

33. To approve a variance from a zoning requirement, the Board must make the following findings:

- (1) the requirement does not allow for a reasonable use of property;
- (2) the hardship for which the variance is requested is unique to the property and is not generally a characteristic of the area in which the property is located; and
- (3) development under the variance does not:
  - (a) alter the character of the area adjacent to the property;
  - (b) impair the use of adjacent property that is developed in compliance with the City requirements; or
  - (c) impair the purposes of the regulations of the zoning district in which the property is located.

Austin City Code § 25-2-474; *see also* Ex. 1, Board Rules Art. 3(B)(1).

34. A hardship in support of a zoning variance “‘must not be self-imposed’.” *Ferris v. City of Austin*, 150 S.W.3d 514, 522 (Tex. App.—Austin 2004, no pet.) (quoting *Town of S. Padre Island v. Cantu*, 52 S.W.3d 287, 290 (Tex. App.—Corpus Christi 2001, no pet.)). The Board recognizes this rule in multiple places in the Board Guidebook, which advises that a hardship “cannot be self-created” and that “[a]n applicant for a permit or site plan cannot claim a hardship based on conditions that he or she is responsible for creating.” Ex. 2, Board Guidebook at 7, 9, and 10.

35. As evidenced by the Building Permit Application that Mayes submitted to the Board but was not considered, the Birchers created their own hardship when they chose to narrow the west side of the porte-cochere by 5 feet 6 inches and to build a second story supported by the South Column 7 feet 9 inches off of the house, thereby restricting their ability to access a garage located outside of the 10-foot rear setback. The Applicant, who designed the remodel herself, was less than candid with the Board when she failed to reveal that: (1) the Birchers constructed the obstruction that they now assert prevents them from complying with the rear setback; and (2) the Birchers' original site plan approved by the City in 2008 contained parking spaces in the same exact location that they now claim is inaccessible. In addition to omitting these key facts, the Applicant actually misrepresented the nature of the obstruction to the Board in her Application when she stated that the "posts supporting the porte-cochere" -- not the South Column supporting the new second story of the house -- "restrict the maneuverability of standard-sized vehicles." Although the Applicant acknowledged that the offending column was "a couple of feet" south of the porte-cochere at the Initial Hearing, this fact apparently never registered with the Board, which found that the "location of the porte-cochere" constituted the hardship.

36. Because the Birchers' alleged hardship is self-imposed, their Application must be denied. This Court should reverse the Board's decision granting the variance and render judgment denying the variance.

#### **VIII. APPLICATION FOR STAY OR TEMPORARY INJUNCTION**

37. Mayes also requests that the Court issue an order staying the Board's decision to grant the variance or, alternatively, a mandatory, temporary injunction ordering the Board to stay its decision pending final resolution of this appeal.



38. The purpose of a temporary injunction is to preserve the status quo pending a trial on the merits. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002). A writ of certiorari issued under Texas Local Government Code § 211.011 does not stay the underlying proceedings before the board of adjustment, but “the court may grant a restraining order if due cause is shown.” Tex. Local Gov’t Code § 211.011(c). Due cause exists for this Court to stay the Board’s decision granting the variance or to issue a mandatory, temporary injunction ordering the Board to stay its decision while this appeal is pending. If the Birchers move forward with construction of their Garage and the Board’s decision is reversed or rescinded, it is likely that the Birchers would then be required to demolish some or all of a newly constructed Garage or that they will argue that they should be permitted to continue building within the setback because of their reliance on the Board’s prior decision.

39. Mayes is also entitled to a temporary injunction under the Texas Civil Practices and Remedies Code and general principals of equity. *See* Tex. Civ. Prac. & Rem. Code § 65.011. Texas Civil Practices Remedies Code § 65.011 provides, in relevant part, that a writ of injunction may be issued if:

- (1) the applicant is entitled to the relief demanded and all or part of the relief requires the restraint of some act prejudicial to the applicant;
- (2) a party performs or is about to perform or is procuring or allowing the performance of an act relating to the subject of pending litigation, in violation of the rights of the applicant, and the act would tend to render the judgment in that litigation ineffectual;
- (3) the applicant is entitled to a writ of injunction under the principles of equity and the statutes of this state relating to injunctions; [or]

\*\*\*

- (5) irreparable injury to real or personal property is threatened, irrespective of any remedy at law.

Generally, an applicant for an injunction must show that it: (1) has a probable right to permanent relief against the defendant; (2) is faced with a probable, imminent, and irreparable injury if no injunction is granted; and (3) has no adequate remedy at law. See *Butnaru*, 84 S.W.3d at 204; *Synergy Ctr., Ltd. v. Lone Star Franchising, Inc.*, 63 S.W.3d 561, 567 (Tex. App. —Austin 2001, no pet.). Harm is irreparable and an applicant has no adequate remedy at law if its damages cannot be measured with reasonable certainty. *Butnaru*, 84 S.W.3d at 204; *Synergy*, 63 S.W.3d at 567.

40. Based on the arguments set forth above and the evidence Mayes will submit at the hearing on this application, Mayes will demonstrate a probable right to relief on this appeal. Allowing the variance to remain in effect makes it highly probable that the Birchers will start construction on the Garage in the immediate future. This would prejudice Mayes's right to enforce the setback, render any relief granted by this Court ineffectual, and cause irreparable harm to the value, use, and enjoyment of the Mayes's property. If the Garage is constructed and allowed to remain, the damages to Mayes and his property would highly difficult to measure with any certainty.

41. Accordingly, Mayes respectfully requests that this Court stay the Board's decision granting the variance or, alternatively, issue a mandatory, temporary injunction ordering the Board to stay its decision until this appeal is finally resolved.

#### IX. PRAYER

42. Mayes respectfully requests that the Court grant him the following relief:

- 1) A writ of certiorari directing the Board to prepare and produce to the Court and to Mayes's undersigned counsel the following:
  - a) A verified return that concisely states any pertinent and material facts that show the grounds for its decision to grant the Application and to deny the Request for Reconsideration; and

b) Certified copies of:

- i. Videos and transcripts of those portions of the Initial Hearing held on June 13, 2016 and the Reconsideration Hearing held on July 11, 2016 in which the Board discussed the Application, the Request for Reconsideration, and any amendments or proposed amendments to the Board Rules; and
  - ii. All written materials in the Board's record related to the Application, the Request for Reconsideration, the Initial Hearing, and the Reconsideration Hearing, including but not limited to the Application, the Request for Reconsideration, all "backup" and other evidence submitted by any party in connection with the Application and/or Request for Reconsideration, the Agendas and the Minutes for the Initial Hearing and the Reconsideration Hearing, the Decision Sheets issued by the Board in connection with its decisions on the Application and the Request for Reconsideration, and any other documents relevant to the Board's consideration of the Application and the Request for Reconsideration;
- 2) An order staying the Board's decision granting the variance or, alternatively, a mandatory, temporary injunction ordering the Board to stay its decision pending final resolution of this appeal;
  - 3) A judgment reversing the Board's decision granting the Application and:
    - a) Rendering a judgment denying the Application; or
    - b) alternatively, remanding this proceeding to the Board with instructions to conduct a hearing on Mayes's Request for Reconsideration; and
  - 4) All such other and further relief to which Mayes is justly entitled.

Respectfully submitted,

WALLER, LANSDEN,  
DORTCH AND DAVIS, LLP

By: /s/ Eric J. Taube  
Eric J. Taube  
State Bar No. 19679350  
Cleveland R. Burke  
State Bar No. 24064975  
100 Congress Avenue, Suite 1800  
Austin, Texas 78701  
Telephone: (512) 685-6400  
Facsimile: (512) 685-6417

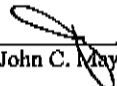
ATTORNEYS FOR PLAINTIFF  
JOHN C. MAYES



**DECLARATION OF JOHN C. MAYES**

Pursuant to Texas Civil Practices and Remedies Code § 132.001, Plaintiff John C. Mayes makes the following declaration in support of the foregoing Original Petition for Writ of Certiorari and Application for Injunctive Relief:

"My name is John C. Mayes, my date of birth is November 23, 1964, and my address is 3912 Avenue G, Austin, Texas, 78751. I declare under penalty of perjury that the facts stated in the foregoing Original Petition for Writ of Certiorari and Application for Injunctive Relief are true and correct."

  
\_\_\_\_\_  
John C. Mayes, Declarant

July 21, 2016  
\_\_\_\_\_  
Date

**From:**  
**To:** [Sadowsky, Steve](#); [Contreras, Kalan](#)  
**Subject:** FW: Demo App - 1713 W 29th, Historic Case Number: NRD-2016-0065  
**Date:** Tuesday, August 16, 2016 3:15:32 PM

---

Kalan & Steve-

I am the owner of the adjacent property (1711 W. 29<sup>th</sup> St.) and want to drop you a note to let you know that I'm in favor of the demo application request Taylor Steed is making on behalf of the property, 1713 W. 29<sup>th</sup> St.

I appreciate your consideration and please do not hesitate to contact me should you have any questions or concerns.

Clay

**Clay A. Golden**

**Barshop & Oles Company**

801 Congress Ave., Suite 300, Austin, TX 78701

Office: 512.637.0489 | Cell: 512.944.4007 | Fax: 512.495.9875

PHILIP OVERBAUGH,

August 16, 2016

RE: Novotny Ramirez Residential Addition & Renovation, 4104 Sinclair Ave, Austin TX 78756

Case Number: HDP-2016-0532 PR-2016-090532

Contact: Steve Sadowsky, 512-974-6454

Public Hearing: August 22, 2016 Historic Landmark Commission

Philip Overbaugh, Architect ---- **I am in favor**

1105 Alta Vista Avenue

Austin, TX 78704

As the Architect for Owners Ryan Novotny, Mirabai Ramirez and their two young children, I was asked to design an addition and renovation to accommodate their family and provide much needed additional space. The Owners expressed a preference for a more updated look that projects a farmhouse modern style while still maintaining the scale and character of the original house. The existing house was built in 1941 and is in serious need of repair and renovation. The Owners have owned and occupied the existing 3 bedroom, 2 bath home for the past 12 years, living in 1601 sf of conditioned space. The existing floor plan is poorly configured with a living room in the middle of the house with no direct light and a small, dark kitchen located on the north side of the house. The new plan includes all new windows, doors, cabinetry and finishes and resolves the floor plan and space deficiencies by adding a new living room, side porch & sun room addition to the rear of the house, moving the kitchen to the south side of the house to gain light and space, and adding a second story addition to accommodate a new master suite. The new spaces are well integrated into the existing rooflines and overall architectural composition, with the second story addition located in the middle of the house to preserve the scale and rooflines of the front façade and to minimize any impact on light and air to the neighbors. A new wood trellis replaces the existing center gable over the front porch to bring more light into the entry and to allow for a large center window above at the new second floor. The completed renovation and addition will have an additional 340 sf of conditioned space on the first floor and 630 sf on the second, for a total of 2571 sf of conditioned space. We believe this is a modest and thoughtful addition and renovation with a much improved floor plan that meets the needs of the family, while respecting the architectural character of the existing house and the adjacent properties. We hope that the commission will agree and humbly request that you move to approve this project.

Respectfully submitted,



Philip Overbaugh  
Architect

1105 ALTA VISTA AVENUE AUSTIN TEXAS

512 663 0163 TEL 512 693 8868 FAX

## PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*); or
- appearing and speaking for the record at the public hearing;

and:

- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 14 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: [www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development).

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

**Case Number(s): HDP-2016-0536 PR-2016-090605**

**Contact: Steve Sadowky, 512-974-6454**

**Public Hearing: August 22, 2016 Historic Landmark Commission**

JUDITH ZWARUN

Your Name (please print)

5108 AVE G

Your address(es) affected by this application

Judith Zwarun 8/15/16

Signature

Date

Comments:

☒ I am in favor  
☐ I object

If you use this form to comment, it may be returned to:

City of Austin

Planning and Zoning Department

Steve Sadowky

P. O. Box 1088

Austin, TX 78767-8810

Fax Number: (512) 974-9104



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**Case Number(s): HDP-2016-0513 PR-2016-083505**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

Tim McCABE

Your Name (*please print*)

☒ I am in favor  
☐ I object

Applicant

Your address(es) affected by this application

MLH

Signature

8-15/2016

Date

Comments:

Delegated

If you use this form to comment, it may be returned to:

City of Austin

Planning and Zoning Department

Steve Sadowsky

P. O. Box 1088

Austin, TX 78767-8810

Fax Number: (512) 974-9104

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and:

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- is the record owner of property within 500 feet of the subject property or proposed development; or
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**Case Number(s):** HDP-2016-0514 PR-2016-082192

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

Tim McCabe

Your Name (please print)

☒ I am in favor  
☐ I object

Appl. int.

Your address(es) affected by this application

[Signature]

Signature

8-15-2016

Date

Comments:

Re/assessed

If you use this form to comment, it may be returned to:

City of Austin

Planning and Zoning Department

Steve Sadowsky

P. O. Box 1088

Austin, TX 78767-8810

Fax Number: (512) 974-9104



Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

**Case Number(s): HDP-2016-0535**

**Contact:** Steve Sadowky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

Guido C Macouzet

Your Name (please print)

☒ I am in favor  
☐ I object

1307 Clifford Ave

Your address(es) affected by this application



Signature

Aug 16, 2016  
Date

Comments:

If you use this form to comment, it may be returned to:

City of Austin

Planning and Zoning Department

Steve Sadowky

P. O. Box 1088

Austin, TX 78767-8810

Fax Number: (512) 974-9104

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**Case Number(s): NRD-2016-0061 PR-2016-089186**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

Rockney Jones

Your Name (*please print*)

1709 Palma Plaza

Your address(es) affected by this application

[Signature]  
Signature

8/15/16  
Date

☐ I am in favor  
☒ I object

Comments:

We both strongly object.

Jeanne Philqvist (Jones) Rockney  
1709 Palma Plaza wife

Jeanne Philqvist.

The existing structure is a stunning  
early 20th Century multi-residential  
bdg that should be preserved as

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Planning and Zoning Department

Steve Sadowsky

P. O. Box 1088

Austin, TX 78767-8810

Fax Number: (512) 974-9104

Please protect  
our neighborhood.  
Please!



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**Case Number: C14H-2016-0008**

**Contact: Steve Sadowsky, 512-974-6454**

**Public Hearing: Aug 23, 2016, Planning Commission  
City Council, Oct 13, 2016**

JOE ADAM LOPEZ, TRUSTEE

*Your Name (please print)*

☐ I am in favor  
☒ I object

2324 WILLOW ST

*Your address(es) affected by this application*

[Signature]

*Signature*

8-16-16

*Date*

Daytime Telephone: 512 236-1730

Comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**Case Number(s):** NRD-2016-0065 PR-2016-0927782

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

Meredith Sanger  
Your Name (please print)

1702 W. 29th St.

Your address(es) affected by this application

[Signature]  
Signature

8/15/14  
Date

Comments: I am in favor of demolition  
and new construction on 1713 W.  
29th St. The current home does not  
contribute to the historic nature of  
the street

Thank you,  
Meredith.

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City of Austin

Planning and Zoning Department

Steve Sadowsky

P. O. Box 1088

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Fax Number: (512) 974-9104

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**Case Number(s): HDP-2016-0531 PR-2016-089021**

**Contact:** Steve Sadowky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

VERNA L. WARWICK

Your Name (please print)

1808 Pasadena Dr.

Your address(es) affected by this application

Verna L. Warwick

Signature

Date

☐ I am in favor  
☒ I object

Comments:

See enclosed comment page

If you use this form to comment, it may be returned to:

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Planning and Zoning Department  
Steve Sadowky  
P. O. Box 1088  
Austin, TX 78767-8810  
Fax Number: (512) 974-9104



## Piles of Dusty Rubble

The destroyers are coming again! Hear the rumble of their large trucks on our street! No more, do we enjoy a quiet little neighborhood. Big noisy equipment comes to destroy the homes of your old friends, where many memories still fill your head. They demolish fine homes! They plunder every valuable and Historic thing. The walls are pulled down until they become piles of dusty rubble. They ravage every tree and shrub and scrape it all down to bare rock! Then, more and more trucks come to haul it away.

While you are still trembling, and choking on the dust, big deliver trucks start coming to deliver pipes, timber then concrete. On and on it goes, day after day. Your street becomes a parking lot for their big trucks and equipment. Often, only one lane of traffic can go through. The stench of their temporary out houses drifts, too often, in your direction. **You ask me if I'm in favor of this??? Not on your life!**

Then they build their flaky cardboard houses and put a big price tag on them! The destroyers are making **BIG BUCKS** at our expense, as we try to live out our quiet lives here in Crestview. I am reminded of the prophesy of Ezekiel.....

"They will plunder your wealth and loot your merchandise; They will break down your walls, demolish your fine houses and throw your stones, timber and rubble into the sea." [Ezekiel 26:12]

Yours Truly,

Verna L. Warwick





Camille M. Perry  
Your Name (please print)

2211 Ira Lane Austin, TX 78704-4911  
Your address(es) affected by this application

<input type="checkbox"/>	I am in favor
<input checked="" type="checkbox"/>	I object to photo maps

Camille M. Perry  
Signature

Aug 13, 2016  
Date

Comments: This is not related to a particular case but is a  
general comment objecting to aeral (?drow) maps enclosed  
with demolition or other requests. Regular drawing street  
maps are much easier to read or follow. Thank you.  
Questions — phone 512-444-0754  
Examples enclosed.

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City of Austin  
Planning and Zoning Department  
Steve Sadowky  
P. O. Box 1088  
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Do not use this type map. It is much more difficult to read or follow.



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

#### NOTIFICATIONS

CASE#: HDP-2016-0537

LOCATION: 804 W Oltorf



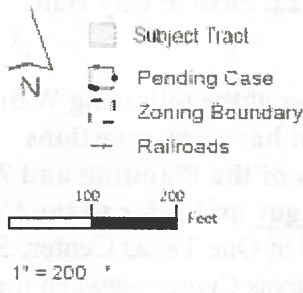
1" = 121'

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



Please use this type of map with all demolition, zoning, etc (city) requests.



### ZONING

ZONING CASE#: C14-2016-0063.SH

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Created 06/21/18

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**Case Number(s):** HDP-2016-0511 PR-2016-083667

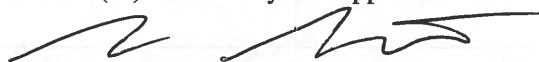
**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

Gary Gustovich  
Your Name (*please print*)

☐ I am in favor  
☒ I object

1705 Travis Heights Blvd  
Your address(es) affected by this application

 8-15-16  
Signature Date

Comments: Plans for redevelopment  
have not been submitted to  
the city.

If you use this form to comment, it may be returned to:

City of Austin

Planning and Zoning Department

Steve Sadowsky

P. O. Box 1088

Austin, TX 78767-8810

Fax Number: (512) 974-9104



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**Case Number(s): HDP-2016-0511 PR-2016-083667**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

SUSAN BARR

Your Name (*please print*)

☐ I am in favor  
☒ I object

1705 TRAVIS HEIGHTS BLVD

Your address(es) affected by this application

Susan Barr

Signature

8/15/16

Date

Comments: PLANS FOR REDEVELOPMENT HAVE  
NOT BEEN SUBMITTED TO THE CITY

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Planning and Zoning Department

Steve Sadowsky

P. O. Box 1088

Austin, TX 78767-8810

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**Case Number(s):** HDP-2016-0484 PR-2016-080583

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

MARVIN H. DOUGLAS

Your Name (please print)

1909 CHESTNUT AVE

Your address(es) affected by this application

Marvin H. Douglas

Signature

Aug 15 2016

Date

☐ I am in favor  
☒ I object

Comments:

I object demolition of  
2011 Chestnut Ave.  
to many historical  
properties and demolition  
in East Austin.

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**Case Number(s): HDP-2016-0513 PR-2016-083505**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

DORINDA SCOTT

Your Name (*please print*)

☐ I am in favor  
☒ I object

1809 Treadwell St, Austin, TX 78704

Your address(es) affected by this application

Dorinda Scott

Signature

8-15-16

Date

Comments: 1806 Treadwell St. is an AD Stenger designed house and thus, historic; along with being a part of a grouping of Stenger homes along both sides of Treadwell and Kerr behind 1806, along with many others in this greater neighborhood, where Stenger lived awhile and started his home mine is his tried. In 1952 Stenger restricted parts of this plot to "single story only" due to a large cavern under us. In backyard of 1808, trying to plant a shrub, used rock sleds to break rock 2-3 ft. down. If you use this form to comment, it may be returned to:  
City of Austin Through the crack into the cavern;  
Planning and Zoning Department hearing 5 dings as it went  
Steve Sadowsky down deep under our houses.  
P. O. Box 1088 Look up the original platting  
Austin, TX 78767-8810 documents Stenger filed in  
Fax Number: (512) 974-9104 early 1950's for all the restrictive details.

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**Case Number(s): NRD-2016-0063 PR-2016-091464**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

John C Burke

Your Name (*please print*)

☐ I am in favor  
☒ I object

2519 HARTFORD RD 78703

Your address(es) affected by this application

John C Burke

Signature

8-15-16

Date

Comments: I OBJECT TO MORE DEMOLITION OF SMALL

HOUSES TO FACILITATE CONSTRUCTION OF LARGER

RESIDENCES WHICH DESTROY THE EXISTING MIX OF

SMALLER AND MID-SIZED HOMES THAT MAKE PEMBERTON

HEIGHTS SO DESIRABLE. ALSO, IT CHANGES THE

NEIGHBORHOOD CHARACTERISTICS THAT MAKE PEMBERTON

HEIGHTS A NATIONAL REGISTER HISTORIC DISTRICT.

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City of Austin

Planning and Zoning Department

Steve Sadowsky

P. O. Box 1088

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**Case Number(s):** NRD-2016-0063 PR-2016-091464

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

Drew Dodson  
Your Name (*please print*)

2525 Hartford Rd.  
Your address(es) affected by this application

[Signature]  
Signature

<input checked="checked" type="checkbox"/> I am in favor
<input type="checkbox"/> I object

8/13/16  
Date

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If you use this form to comment, it may be returned to:

City of Austin

Planning and Zoning Department

Steve Sadowsky

P. O. Box 1088

Austin, TX 78767-8810

Fax Number: (512) 974-9104

## PUBLIC HEARING INFORMATION

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**Case Number(s):** NRD-2016-0055 PR-2016-077930

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

SUZANNE RANDOLPH

Your Name (please print)

☒ I am in favor  
☐ I object

1517 MURRAY LANE

Your address(es) affected by this application

Suzanne Randolph

Signature

8-14-16

Date

Comments:

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**Case Number(s): HDP-2016-0500 PR-2016-081072**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

John M Carrizales

Your Name (*please print*)

☐ I am in favor  
☒ I object

2765 Lyons Rd

Your address(es) affected by this application

John M Carrizales

Signature

Date

Comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**Case Number(s): HDP-2016-0500 PR-2016-081072**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

John M. Carrizales

Your Name (please print)

2901 Lyons Rd.

Your address(es) affected by this application

John M. Carrizales

Signature

8/15/16

Date

☐ I am in favor  
☒ I object

Comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

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**Case Number(s): HDP-2016-0507 PR-2016-085722**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

Heather Hunziker

Your Name (*please print*)

☐ I am in favor  
☒ I object

102 E. 46<sup>th</sup> Street, Austin 78751

Your address(es) affected by this application

[Signature]

Signature

8/11/16

Date

Comments: This small house is perfectly fine & does not merit demo. I considered buying it for a rental home -- for which it would have been perfect -- but it sold too quickly for me to act. Demoling this home would simply be one more example of infill at the expense of Austin's more affordable existing housing stock.

If you use this form to comment, it may be returned to:

City of Austin

Planning and Zoning Department

Steve Sadowsky

P. O. Box 1088

Austin, TX 78767-8810

Fax Number: (512) 974-9104

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**Case Number(s):** HDP-2016-0507 PR-2016-085722

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

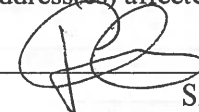
Tobias Munziker

Your Name (please print)

78751

102 E. 46th St., Austin, TX

Your address(es) affected by this application



Signature

8/12/16

Date

Comments:

It is unclear why Demo  
is required for this property.  
There isn't anything wrong with the house.  
I could understand an extension of expansion,  
but demo seems unnecessary and  
more inclined toward flipping the house  
than providing housing.

It also seems very risky near waller creek  
due to flooding.

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Planning and Zoning Department

Steve Sadowsky

P. O. Box 1088

Austin, TX 78767-8810

Fax Number: (512) 974-9104

☐ I am in favor  
☒ I object



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**Case Number(s):** NRD-2016-0062 PR-2016-076919

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

Thomas STEGE

Your Name (please print)

1623 W. 10<sup>th</sup> - Austin, 78703

Your address(es) affected by this application

Mum E Stege

Signature

Aug 13, 2016

Date

☒ I am in favor  
☐ I object

Comments:

If you use this form to comment, it may be returned to:

City of Austin

Planning and Zoning Department

Steve Sadowsky

P. O. Box 1088

Austin, TX 78767-8810

Fax Number: (512) 974-9104

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**Case Number(s): HDP-2016-0508 PR-2016-085706**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

JOSEPH D. MALONE

Your Name (please print) JJB Investments LLC

1200 Springdale Rd. Austin, TX 78721

Your address(es) affected by this application

Joseph D. Malone

Signature

☒ I am in favor  
☐ I object

8/12/2016  
Date

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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City of Austin

Planning and Zoning Department

Steve Sadowsky

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Austin, TX 78767-8810

Fax Number: (512) 974-9104



## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

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**Case Number: C14H-2016-0073**

**Contact: Steve Sadowsky, 512-974-6454**

**Public Hearing: Historic Landmark Commission, Aug 22, 2016**

Peggy Davis Pryor  
Your Name (please print)

800 San Antonio St. #5 78701  
Your address(es) affected by this application

☒ I am in favor  
☐ I object

Peggy Davis Pryor 8.12.2016  
Signature Date

Daytime Telephone: \_\_\_\_\_

Comments: \_\_\_\_\_

I am in favor of any true  
protections for historic  
structures and do consider  
this property to be one!

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**Case Number(s): HDP-2016-0537 PR-2016-090603**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

CAREY BALTER

Your Name (please print)

2314 S. 3rd Street

Your address(es) affected by this application

*[Signature]*

Signature

8-23-16

Date

Comments:

I have next store and fully support the demolition. I do want to ensure builder/owner are cognizant of proper property lines as my fence was not built to end of my lot given trees between houses that I'm guessing will be removed

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Planning and Zoning Department

Steve Sadowsky

P. O. Box 1088

Austin, TX 78767-8810

Fax Number: (512) 974-9104

☒ I am in favor  
☐ I object



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**Case Number(s): HDP-2016-0532 PR-2016-090532**

**Contact:** Steve Sadowky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

Jacoba van Sitteren

Your Name (please print)

☐ I am in favor  
☒ I object

4200 Sinclair Ave

Your address(es) affected by this application

Signature

Date

Comments:

The historic value of  
this house to our neighbor-  
hood is great. It is a  
perfect example of the  
Rosedale homes the way they  
were.  
We need to try to preserve as  
many of these "original" houses  
as we can, and preserve the  
neighborhood character

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Fax Number: (512) 974-9104

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**Case Number(s): HDP-2016-0513 PR-2016-083505**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

JOHN DAVID SLEVIN

Your Name (please print)

☐ I am in favor  
☒ I object

1812 TREADWELL ST., AUSTIN, TX 78704

Your address(es) affected by this application

John David Slevin

Signature

8/14/16

Date

Comments: I AM STRONGLY OPPOSED TO THE  
PROPOSED DEMOLITION OF 1806 TREADWELL STREET.  
THESE TEARDOWNS ARE DESTROYING THE CHARACTER  
OF THIS NEIGHBORHOOD. THERE IS ABSOLUTELY  
NO REASON FOR THIS HOUSE TO BE REMOVED.  
ALSO, AS THIS IS IN SOUTH LUND PARK, BLOCK C,  
THERE IS A ONE STORY HEIGHT DEED RESTRICTION  
ON THE LOT SO BUILDING A MCMANSION IS  
OUT OF THE QUESTION ANYWAY.

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City of Austin

Planning and Zoning Department

Steve Sadowsky

P. O. Box 1088

Austin, TX 78767-8810

Fax Number: (512) 974-9104



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**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

M Alisa Stevia  
Your Name (please print)

1812 Treadwell St Austin TX  
Your address(es) affected by this application

[Signature] 8/14/16  
Signature Date

☐ I am in favor  
☒ I object

Comments:

because I fear a huge  
monster house will be  
built in this place!

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Steve Sadowsky  
P. O. Box 1088  
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Case Number(s): LHD-2016-0014

PR-2016-083733

Contact: Steve Sadowsky, 512-974-6454

Public Hearing: Historic Landmark Commission, August 22, 2016

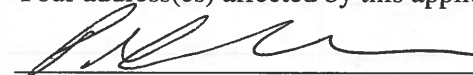
Pete Gilcrease

Your Name (please print)

- 4013 Avenue F

- Neighborhood Association Friends of Hyde Park

Your address(es) affected by this application



Signature

☒ I am in favor  
☐ I object

8/15/16

Date

Comments:

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Planning & Zoning Department

Steve Sadowsky

P. O. Box 1088

Austin, TX 78767-8810

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**Case Number(s): HDP-2016-0492 PR-2016-078082**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

**GERLINDE LEIDING**

Your Name (*please print*)

☐ I am in favor  
☒ I object

**1910 NUECES**

Your address(es) affected by this application

*Gerlinde Leiding*

Signature

**8/15/2016**

Date

Comments: **Bldg. SHOULD BE MOVED - NOT DEMOLISHED!**

**This is the last straw in a totally deceptive building permit application for "Aspen Heights" a 17 story "luxury student housing," with a 75 foot excavation depth, project.**

**A solely speculative, greed driven addition to the West Campus Ghetto! Facts:**

**Demo Permit for 1909 Rio Grande - 6/2015**  
**"multi-family" project - how long is permit valid?**

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Fax Number: (512) 974-9104

**continued on 1913 Rio**



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**Case Number(s): HDP-2016-0489 PR-2016-078091**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

GERLINDE LEIDING

Your Name (please print)

<input type="checkbox"/>	I am in favor
<input checked="" type="checkbox"/>	object

1910 NUECES

Your address(es) affected by this application

Gerlinde Leiding  
Signature

8/15/2016  
Date

Comments: BLDG. SHOULD BE MOVED - SAVED

Continued from 1911 Rio Grande request:

11/2015 application for Administrative site plan  
Approval: incl. 1909, 1911, 1913 sites "Aspen Heights"

5/2016 site plan approval sought - showing demo -  
tion of above bldgs. - NO DEMO PERMITS REQUESTED

until now (owner rep. earlier: "BURY knows everyone  
at the city - will be fixed")... PERMIT needed for

cutting down specimen trees ???

SORRY, I CAN NOT BE AT THE HEARING -

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WILL BE IN EUROPE,  
BUT WISH TO EXPRESS  
MY DISMAY WITH  
PROJECT & PERMIT  
PROCESS & MY PROPERTY  
DEVALUATION.



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**Case Number(s): HDP-2016-0505 PR-2016-085501**

**Contact:** Steve Sadowsky, 512-974-6454

**Public Hearing:** August 22, 2016 Historic Landmark Commission

Rosalyn Nguyen  
Your Name (*please print*)

☐ I am in favor  
☒ I object

1601 Miram  
Your address(es) affected by this application

[Signature] 8/13/16  
Signature Date

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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